

## Office of Personnel Management

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agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall accept installment payments (by allotments or otherwise). However, agencies, the Clerk of the House of Representatives, and the Secretary of the Senate will not be required to accept individual checks in amounts of less than \$50.

(3) If the employee or Member dies, the employing agency, the Clerk of the House of Representatives or the Secretary of the Senate shall advise the survivor of the right to make or complete a deposit. If the survivor decides to make or complete the payment, the agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall collect the amount due in one lump sum.

(4) Payments received by the employing agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall be remitted immediately to OPM for deposit to the Fund.

(5) Once the employee's, Member's, or survivor's deposit has been paid in full or closed out, the employing agency, the Clerk of the House of Representatives, or the Secretary of the Senate shall submit documentation pertaining to the deposit to OPM, in accordance with instructions published by OPM issuances.

(6) Deposits must be made for full periods of service.

(b) Deposits made to OPM.

(1) Deposits made to OPM shall be made in a lump sum prior to final adjudication of the application for retirement or survivor benefits.

(2) Deposits must be made for full periods of service.

[48 FR 38788, Aug. 26, 1983, as amended at 49 FR 20631, May 16, 1984; 66 FR 66711, Dec. 27, 2001]

### Subpart V—Alternative Forms of Annuities

SOURCE: 51 FR 42989, Nov. 28, 1986, unless otherwise noted.

#### § 831.2201 Purpose.

This subpart explains the benefits available to employees and Members who elect an alternative form of annu-

ity under section 8343a of title 5, United States Code.

#### § 831.2202 Definitions.

In this subpart—

*Alternative form of annuity* means the benefit elected under § 831.2204.

*Current spouse annuity* has the same meaning as in § 831.603.

*Date of final adjudication* means the date 30 days after the date of the first regular monthly payment as defined in § 831.603.

*Former spouse annuity* has the same meaning as in § 831.603.

*Lump-sum credit* has the same meaning as in 5 U.S.C. 8331(8).

*Present value factor* represents the amount of money (earning interest at an assumed rate) required at the time of retirement to fund an annuity that: (a) Starts out at the rate of \$1 a month and is payable in monthly installments for the annuitant's lifetime based on mortality rates for non-disability annuitants under the Civil Service Retirement System; and (b) increases each year at an assumed rate of inflation. Interest, mortality, and inflation rates used in computing the present value are those used by the Board of Actuaries of the Civil Service Retirement System for valuation of the System, based on dynamic assumptions. The present value factors are unisex factors obtained by averaging sex-distinct present value factors, weighted by the total dollar value of annuities typically paid to new retirees at each age.

*Time of retirement* has the same meaning as in § 831.603.

[51 FR 42989, Nov. 28, 1986, as amended at 54 FR 10136, Mar. 10, 1989]

#### § 831.2203 Eligibility.

(a) Except as provided in paragraphs (b), (c), and (h) of this section, an employee or Member whose annuity entitlement commences after June 5, 1986, under any provision of subchapter III of chapter 83 of title 5, United States Code (other than section 8337 of that title), may elect an alternative form of annuity instead of any other benefits under the subchapter.

(b) An employee or Member who, at the time of retirement has a former spouse who is entitled to a portion of

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the employee's or Member's retirement benefits or a former spouse annuity under a court order acceptable for processing as defined by § 838.103 of this chapter or under a qualifying court order as defined in § 838.1003 of this chapter may not elect an alternative form of annuity.

(c) An employee or Member who is married at the time of retirement may not elect an alternative form of annuity unless the employee's or Member's spouse specifically consents to the election before the date of final adjudication. OPM may waive spousal consent only under the conditions prescribed by § 831.618.

(d) The election of an alternative form of annuity and evidence of spousal consent must be filed on a form prescribed by OPM. The form will require that a notary public or other official authorized to administer oaths certify that the current spouse presented identification, gave consent to the specific election as executed by the retiree, signed or marked the form, and acknowledged that the consent was given freely in the notary's or official's presence.

(e) An election of the alternative form of annuity must be in writing and received by OPM on or before the date of final adjudication. After the date of final adjudication, an election of the alternative form of annuity is irrevocable.

(f) Except as provided in paragraph (g), an annuitant who dies before the date of final adjudication is deemed to have made an affirmative election under paragraph (a) with a fully reduced annuity to provide a current spouse annuity, regardless of any election completed under § 831.614, and the lump-sum credit will be paid in accordance with the order of precedence established under 5 U.S.C. 8342(c).

(g) If an annuitant described in paragraph (f) has completed an election under § 831.611(a) or (b)—

(1) The lump-sum credit will be paid in accordance with the order of precedence established under 5 U.S.C. 8342(c); and

(2) The election under § 831.611(a) or (b) will be honored.

(h)(1)(i) An individual whose annuity commences after December 1, 1990, and

before October 1, 1994, may elect an alternative form of annuity only if that individual is—

(A) An employee or Member who meets the conditions and fulfills the requirements described in § 831.2207(c) (2) and (3); or

(B) An employee who is separated involuntarily other than for cause on charges of misconduct or delinquency;

(ii) An individual whose annuity commences on or after October 1, 1994, may elect an alternative form of annuity only if that individual is an employee or Member who meets the conditions and fulfills the requirements described in § 831.2207(c) (2) and (3).

(2) For the purpose of paragraph (h)(1)(i)(B) of this section, the term “employee” does not include—

(i) Members of Congress;

(ii) Individuals in positions in the Executive Schedule under sections 5312 through 5317 of title 5, United States Code;

(iii) Presidential appointees under section 105(a)(1), 106(a)(1), or 107 (a)(1) or (b)(1) of title 3, United States Code, if the maximum basic pay for such positions is at or above the rate for Executive Schedule, level V;

(iv) Noncareer appointees in the Senior Executive Service or noncareer members of the Senior Foreign Service; and

(v) Any individual in a position that is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character.

(3) Notwithstanding paragraph (h)(1) of this section, an employee whose annuity commences after December 1, 1990, and before December 2, 1991, may elect an alternative form of annuity if that individual—

(i)(A) Was ordered to active military duty (other than for training) before December 1, 1990, in connection with Operation Desert Shield; or

(B) Is an employee of the Department of Defense who is certified by the Secretary of Defense to have performed, after November 30, 1990, duties essential to support Operation Desert Shield, and the certification is submitted to OPM in a form prescribed by OPM; and

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(ii) Would have been eligible, as of November 30, 1990, to elect an alternative form of annuity under paragraph (a) of this section.

[51 FR 42989, Nov. 28, 1986, as amended at 53 FR 11634, Apr. 8, 1988; 56 FR 6551, Feb. 19, 1991; 57 FR 33598, July 29, 1992; 58 FR 52882, Oct. 13, 1993; 60 FR 54586, 54587, Oct. 25, 1995]

### § 831.2204 Alternative forms of annuities available.

(a) An employee or Member who is eligible to make an election under § 831.2203 may elect to receive his or her lump-sum credit plus an annuity computed in accordance with section 8339 of title 5, United States Code, for which they qualify (including any reduction for survivor benefits) and reduced under § 831.2205.

(b) A retired employee or Member who elected an alternative form of annuity is subject to all provisions of subchapter III of chapter 83 of title 5, United States Code, as would otherwise apply to a retired employee or Member who did not elect an alternative form of annuity, except that an individual who elected an alternative form of annuity is not eligible to apply for disability annuity under section 8337 of such subchapter.

[51 FR 42989, Nov. 28, 1986, as amended at 53 FR 11634, Apr. 8, 1988; 54 FR 10136, Mar. 10, 1989]

### § 831.2205 Computation of alternative form of annuity.

(a) To compute the beginning rate of annuity payable to a retiree who elects an alternative form of annuity, OPM will first compute the monthly rate of annuity otherwise payable under subchapter III of chapter 83 of title 5, United States Code, including all reductions provided under the subchapter other than those in § 8343a. That monthly rate is then reduced by an amount equal to the retiree's lump-sum credit divided by the present value factor for the retiree's attained age (in full years) at the time of retirement. The reduced monthly rate is then rounded to the next lowest dollar and becomes the rate of annuity payable.

(b) OPM will publish a notice in the FEDERAL REGISTER announcing any proposed adjustments in present value

factors at least 30 days before the effective date of the adjustments.

### § 831.2206 Election to pay deposit or redeposit for civilian service.

(a) If an employee or Member who elects an alternative form of annuity owes a deposit or redeposit for civilian service, and elects to pay that deposit or redeposit before the date of final adjudication, OPM will compute the annuity as if the deposit or redeposit had been made and will deem that deposit or redeposit to be included in the lump-sum credit for the purpose of computing the reduction in annuity under § 831.2205.

(b) The amount of a deposit or redeposit deemed paid under paragraph (a) of this section will include any interest owed by the employee or Member under 5 U.S.C. 8334.

(c) For the purpose of paragraph (a) of this section, "redeposit" does not include a redeposit owed for service for which credit is allowed pursuant to § 831.303(c)(1).

[54 FR 10136, Mar. 10, 1989, as amended at 56 FR 43865, Sept. 5, 1991]

### § 831.2207 Partial deferred payment of the lump-sum credit if annuity commences after January 3, 1988, and before October 1, 1989.

(a) Except as provided in paragraph (c) of this section, if the annuity of an employee or Member commences after January 3, 1988, and before October 1, 1989, the lump-sum credit payable under § 831.2204 is payable to the individual, or his or her survivors, according to the following schedule:

(1) Sixty percent of the lump-sum credit is payable at the time of retirement, and

(2) Forty percent is payable, with interest determined under section 8334(e)(3) of title 5, United States Code, one year after the time of retirement.

(b) If an employee or Member whose annuity commences after January 3, 1988, and before October 1, 1989, dies before the date of final adjudication, that individual is subject to § 831.2203 (f) or (g), but the lump-sum credit will be paid in accordance with the schedule in paragraph (a) of this section.